

FILED

2015 SEP 28 AM 10:32

STATE OF NORTH CAROLINA, WAKE COUNTY, U.S.C. IN THE GENERAL COURT OF JUSTICE
WAKE COUNTY BY SUPERIOR COURT DIVISION
FILE NO.: 15CVS12395

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

STEPHANIE L. VILLAYER, Attorney,

Respondent

CONSENT ORDER OF
PRELIMINARY INJUNCTION

THIS MATTER came on for consideration by the undersigned Judge of the Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Jennifer A. Porter. Respondent, Stephanie L. Villaver, was represented by Douglas J. Brocker and K. Brooke Ottesen. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code). The State Bar brings this action pursuant to N.C. Gen. Stat. § 84-28(f).
2. Respondent, Stephanie L. Villaver ("Villaver"), was licensed to practice law in North Carolina in 2003.
3. The State Bar's membership database shows the following address for Villaver: 323 Western Blvd, Jacksonville, NC 28546.
4. The State Bar has received information which, if proven, would establish that funds placed in trust with Villaver have been misapplied.
5. The State Bar has notified Villaver of the information it has received, and Villaver acknowledges receipt of this notice and information. Villaver desires to cooperate with the North Carolina State Bar.
6. A need for prompt action exists to ensure that entrusted funds are not mishandled in the future.

7. Villaver stipulates to the Wake County Superior Court's jurisdiction over her person, acknowledges the Court's subject matter jurisdiction pursuant to N.C. Gen. Stat. § 84-28(f), and waives any right to challenge or appeal this order on jurisdictional grounds.

BASED UPON THE FOREGOING FINDINGS, and with the consent of the parties, the Court makes the following:

CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Respondent and jurisdiction over the subject matter. This matter is properly before the Wake County Superior Court pursuant to N.C. Gen. Stat. § 84-28(f).

2. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of the trust and fiduciary accounts to which Villaver has had access as well as any other accounts into which client or fiduciary funds have been deposited, including, if applicable, operating and personal bank accounts, and to ensure that no client or fiduciary funds are mishandled.

3. Villaver should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from writing checks against or withdrawing funds from any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to write a check against or withdraw funds from any account in which client or fiduciary funds have been deposited, until and unless expressly permitted by subsequent orders of the Court.

4. To assist the State Bar's analysis of her accounts, Villaver should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited and with all client files requested by the State Bar as set forth below.

5. To assist the State Bar's analysis of her accounts, Villaver should provide the State Bar with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

6. Villaver should be prohibited from serving as a trustee, escrow agent, settlement agent, attorney-in-fact, executor, personal representative or in any other fiduciary capacity.

THEREFORE, IT IS HEREBY ORDERED:

1. Stephanie L. Villaver is enjoined from accepting any further funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or writing any checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to withdraw funds from and/or write

a check against any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court.

2. Villaver, or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited, such accounts including Villaver's operating and personal accounts if applicable and the two checking accounts ending in numbers 2327 and 5446 into which funds were transferred from Villaver's trust account, shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying all financial records relating to any such account, these records to include but not limited to bank statements, canceled checks (front and back), deposit slips, client ledger cards, check stubs, deposited items and debit memos, wire documentation, and any other records relating to the receipt and disbursement of client and/or fiduciary funds, as requested by the State Bar.

3. If Villaver does not have possession of the records described above or of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct, she shall direct the bank(s) where her trust account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at its Raleigh, North Carolina location, at Villaver's expense.

4. Villaver, or any other person having custody or control over records described herein, produce to the State Bar for inspection and copying all records and documents relating to individuals or entities for whom Villaver has provided legal or fiduciary services, including but not limited to client files, settlement statements, HUD-1 Settlement Statements, billing statements, fee agreements, memoranda and receipts. Documents relating to current client files and current employees shall be produced at the State Bar offices in Raleigh, North Carolina within 24 hours of demand by the State Bar and closed client files and records of former employees shall be produced at the State Bar offices in Raleigh, North Carolina within 3 days of demand by the State Bar.

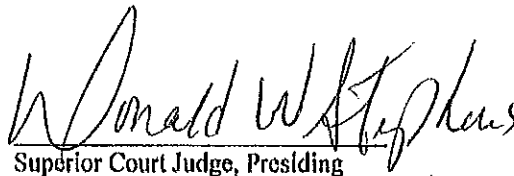
5. Villaver shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location, as requested by the State Bar, the monthly and quarterly reconciliation reports for any and all trust or fiduciary accounts that she is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct. If Villaver has not prepared such reports as required, Villaver is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.

6. Villaver is hereby enjoined from serving as an attorney-in-fact, escrow agent, settlement agent, trustee, executor, personal representative or in any other fiduciary capacity.

7. Villaver may make arrangements another attorney approved in advance by the Office of Counsel of the State Bar to receive and disburse entrusted funds for her clients while this injunction is in effect. Villaver must notify any client for whom such other attorney would handle funds and such client must consent in advance another attorney handling such client's funds. Villaver shall exercise no control over the receipt or disbursement of such entrusted funds. Any other attorney handling the entrusted funds of Villaver's clients in accordance with this injunction must independently determine appropriate disbursement of the funds and is responsible for compliance with the Rules of Professional Conduct concerning such funds. All accounts into which such other attorney deposits entrusted funds of Villaver's clients shall be subject to audit by the State Bar upon demand.

8. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

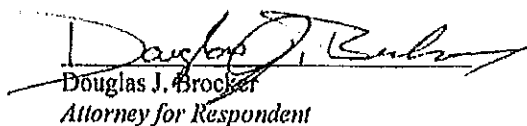
THIS the 20th day of September, 2015.


Superior Court Judge, Presiding

WE CONSENT:


Jennifer A. Porter
Attorney for Petitioner


Stephanie L. Villaver
Respondent


Douglas J. Brockner
Attorney for Respondent